



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	01/22/01	Bill No:	AB 11x
Tax:	Energy Resources Surcharge and Natural Gas Surcharge	Author:	Rod Pacheco
Board Position:		Related Bills:	

BILL SUMMARY

This bill would repeal the Energy Resources Surcharge Law and the Natural Gas Surcharge Law.

ANALYSIS

Current Law

Energy Resources Surcharge

Under current law, the energy resources surcharge is imposed on the consumption in this state of electrical energy purchased from an electric utility. The surcharge rate is fixed by the Board of Equalization (Board). The surcharge is currently fixed at \$0.0002 per kilowatt-hour. The Legislature, however, may lower the rate fixed by the Board.

The energy resources surcharge is collected by the Board and transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Energy Resources Surcharge Fund, which, after refunds, is deposited to the Energy Resources Program Account.

Section 40182 of the Energy Resources Surcharge Law provides that it is the intent of the Legislature that the funds in the Energy Resources Programs Account be used for ongoing energy programs and energy projects deemed appropriate by the Legislature, including, but not limited to, the activities of the State Energy Resources Conservation and Development Commission.

Natural Gas Surcharge

Under current law, the natural gas surcharge is imposed on all natural gas consumed in this state. The California Public Utilities Commission (CPUC) annually determines the amount of money required for the following year to administer the program and fund the natural gas related programs for the service territory of each public utility gas corporation. Based upon those costs, the CPUC establishes surcharge rates for each class of customer (core customers and non-core customers) for the service territory of each public utility gas corporation. The current surcharge is as follows:

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		Cents per Therm	Cents per Therm
		CARE ¹	Non-CARE
<u>Customer Class</u>		<u>PG&E</u>	<u>PG&E</u>
Core	Residential	1.13	1.34
	Small Commercial/Industrial	N/A	1.25
	Large Commercial/Industrial	N/A	2.21
Noncore	Industrial Distribution	N/A	0.47
	Industrial Transmission	N/A	0.37
System-wide			0.95
		<u>SDG&E</u>	<u>SDG&E</u>
Core	Residential	3.03	3.72
	Commercial/Industrial	1.08	1.77
	Natural Gas Vehicles	1.05	1.74
Noncore		0.40	1.09
System-wide		2.27	2.72
		<u>SoCalGas</u>	<u>SoCalGas</u>
Core	Residential	1.22	1.81
	Commercial/Industrial	1.81	2.40
	Gas Air-conditioning	0.07	0.66
	Gas Engine	N/A	1.02
Noncore	Commercial/Industrial	N/A	0.60
System-wide		0.94	1.50
		<u>California</u>	<u>California</u>
Default Rate ²		0.91	1.30

The surcharge does not apply to natural gas used to generate power for sale, resold to end users, used for enhanced oil recovery, utilized in cogeneration technology, or produced in California and transported on a proprietary pipeline.

The natural gas surcharge is collected by the Board with payments transmitted to the Treasurer for deposit in the Gas Consumption Surcharge Fund. Monies collected are used for low-income assistance programs, cost effective energy efficiency and conservation activities, and public interest research and development.

¹ Low-income customers who qualify for California Alternate Rate for Energy (CARE) receive a 15 percent discount on rate and pay all of the public purpose program costs except CARE.

² This rate applies to Avista Utilities, Alpine Natural Gas Operating Company, Southern California Edison Company, Southwest Gas Corporation, West Coast Gas Company, and Mountain Utilities.

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Proposed Law

This bill would repeal Article 10 (commencing with Section 890) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, and Part 19 (commencing with Section 40001) of Division 2 of the Revenue and Taxation Code.

This bill is an urgency measure and would become effective immediately upon enactment.

In General

Assembly Bill 1890 (Chapter 854, Brulte, 1996) restructured California's electric industry in order to establish a competitive generation market. The CPUC in D.95-12-063 (as modified by D.96-01-009) required the investor-owned utilities (IOUs) to divest at least 50 percent of their fossil generating assets. While the IOUs have divested most of their generating assets, they are still required to provide distribution service to all retail customers, and to procure power for customers who do not choose direct access; i.e., an alternate supplier.

Beginning last summer wholesale prices for electricity have skyrocketed in California. The IOUs' power procurement costs have been increased dramatically as a result. Customers of Southern California Edison (SCE) and Pacific Gas and Electric (PG&E) are currently protected by the AB 1890 rate freeze (although the CPUC recently approved an interim order increasing rates for 90 days). However, San Diego Gas and Electric (SDG&E) ratepayers, no longer protected by the AB 1890 rate freeze, have seen their energy bills increase substantially beginning last summer.

History

Energy Resources Surcharge

In 1974, AB 1575 (Chapter 276) established a surcharge of one-tenth of a mill (\$0.0001) per kilowatt-hour of electric power sold to consumers. AB 2077 (Chapter 991, Statutes of 1974) changed the surcharge rate schedule and revised provisions for the administration and collection of the surcharge on electricity established by AB 1575.

Several bills containing similar provisions to this measure (to repeal the Energy Resources Surcharge Law) have been introduced in the past; AB 760 (81-82), AB 1044 (81-82), AB 395 (83-84), AB 949 (85-86), and AB 531 (87-88). These bills, however, failed to pass the Legislature.

Natural Gas Surcharge

SB 678 (Calderon, Chapter 285, Statutes of 1996) required the CPUC to prepare a report recommending an approach to funding low-income public policy programs that did not create a competitive imbalance between regulated and unregulated natural gas providers. That report, reflected in Decision 97-06-108, recommended legislation to impose a nonbypassable gas surcharge, or, in plain English, require all current gas customers to continue to pay public policy charges even if they left the regulated utility

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system and purchased gas from a Federal Energy Regulatory Commission (FERC)-regulated gas pipeline.

In 1998, Assembly Bill 2112 (Wright) proposed to make the costs of natural gas public goods programs "nonbypassable". The purpose was to establish a nonbypassable public policy surcharge on current customers of CPUC-regulated natural gas pipelines so that competition between CPUC-regulated and FERC-regulated natural gas pipelines would be based upon service differences, rather than avoidance of the public policy surcharge. That bill, sponsored by Southern California Gas, would have required the CPUC to administer the surcharge. However, AB 2112 did not receive the necessary votes for passage on the Senate Floor.

Assembly Bill 1002 (Wright, Chapter 932, Statutes of 2000) added Article 10 (commencing with Section 890) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code to impose on and after January 1, 2001, a surcharge on all natural gas consumed in this state. The purpose was to spread the cost of the public policy programs among all users of natural gas in California and thereby correct the disparity between intrastate and interstate natural gas pipeline deliveries.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Assembly Member Rod Pacheco and is intended to help lower energy bills by eliminating the energy resources surcharge and natural gas surcharge imposed on the consumption of electrical energy and natural gas, respectively.
2. **Funding for energy programs would be reduced.** The energy resources surcharge is collected by the Board and transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Energy Resources Surcharge Fund, which, after refunds, is deposited to the Energy Resources Program Account. The natural gas surcharge is collected by the Board with payments transmitted to the Treasurer for deposit in the Gas Consumption Surcharge Fund.

The revenue transferred to these funds are used to pay for ongoing energy programs and energy projects deemed appropriate by the Legislature, and for low-income assistance programs, cost effective energy efficiency and conservation activities, and public interest research and development, respectively. Repealing the provisions of the Energy Resources Surcharge Law and the Natural Gas Surcharge Law would reduce the revenues that would normally be appropriated to these funds.

Additionally, it appears that the repeal of the Natural Gas Surcharge Law would not eliminate public purpose programs or the increased rates charged by gas corporations to fund such programs.

It is Board staff's understanding that the Public Utilities Act requires CPUC-regulated gas corporations to create certain public purpose programs, including assistance to low-income customers and low-income weatherization. Therefore, the public purpose programs would continue to exist and be funded by ratepayers whether or not the Natural Gas Surcharge Law is repealed. The repeal of the Natural Gas Surcharge Law, however, would change the manner in which the public purpose

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programs are administered back to the method used prior to AB 1002 (Chapter 932, Statutes of 2000).

3. **This measure would create a disparity between FERC and CPUC-regulated pipeline deliveries.** Federal gas deregulation has made it possible for interstate pipelines regulated by the FERC to directly serve California customers, in direct competition with CPUC-regulated pipelines. As a result, a number of large non-core customers have opted to receive their natural gas supply from these FERC-regulated interstate pipelines.

Prior to AB 1002, costs of public purpose programs included in gas rates were recovered only from the customers of CPUC-regulated pipelines. Assembly Bill 1002 corrected the disparity between FERC and CPUC-regulated pipelines by imposing the costs of the public purpose programs on all natural gas consumed in California.

This measure, however, would again create a disparity between FERC and CPUC-regulated pipelines by only recovering the costs of public purpose programs from customers of CPUC-regulated pipelines.

4. **Suggested Technical Amendments.** It is suggested that language be added to the bill that would provide the Board with the necessary authority to continue to assess and collect energy resources surcharge and natural gas surcharge amounts that become due prior to the repeal of the surcharges.

Board staff is willing to work with the author's office in drafting amendments to the bill that would address this issue.

COST ESTIMATE

Some costs would be incurred in informing the public and Board staff, processing final returns, corresponding with utility companies and their customers, and processing refund claims and billings for past periods. A detailed cost estimate is pending.

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REVENUE ESTIMATE**Energy Resources Surcharge**

According to the 2001-02 Governor's Budget, revenues for the energy resources surcharge are estimated to be \$47,924,000 for Fiscal Year 2001/02. Revenue derived from the surcharge from Fiscal Year 1988/89 to Fiscal Year 1999/00 is as follows:

<u>Year</u>	<u>Revenue</u>
1988-89	\$38,086,000
1989-90	\$39,358,000
1990-91	\$40,246,000
1991-92	\$39,863,000
1992-93	\$41,349,000
1993-94	\$40,706,000
1994-95	\$41,296,000
1995-96	\$45,588,000
1996-97	\$42,542,000
1997-98	\$41,454,000
1998-99	\$43,191,000
1999-00	\$45,539,000

Natural Gas Surcharge

The estimated surcharge on natural gas consumption in this state sufficient to recoup the costs of the various public policy programs was estimated by the Department of Finance to be \$123 million annually statewide.

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